



DEPARTMENT OF THE ARMY
CHICAGO DISTRICT, CORPS OF ENGINEERS
231 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60604-1437

DEPARTMENT OF THE ARMY PERMIT
LAKE MICHIGAN REGIONAL GENERAL PERMIT (LMRGP)

PERMITTEE: The General Public in Lake and Cook Counties, Illinois

ISSUING OFFICE: Chicago District, U.S. Army Corps of Engineers (Corps)

EFFECTIVE DATE: October 1, 2020

EXPIRATION DATE: September 30, 2025

AUTHORITIES: You have been authorized to undertake the activity described below pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and/or under Section 404 of the Clean Water Act (CWA) for discharges of dredged or fill material into waters of the United States.

AUTHORIZED ACTIVITY: The following activities are covered under this permit:

1. Installation, repair, and modification of permanent and seasonal piers/docks, boat ramps, boat hoists, and lifts;
2. Navigational and mooring aids;
3. Temporary recreational structures;
4. Installation, repair, and modification of shore protection;
5. Beach nourishment;
6. Maintenance of existing public harbors, public access facilities, and navigational features required for maintaining existing function;
7. In-water discharge of dredged material, including beneficial use of dredged material for beach nourishment, shore protection, or ecosystem restoration;
8. Temporary structures and minor discharges of dredged or fill material necessary for the removal of vessels (wrecked, abandoned, or disabled) or for the removal of constructed obstructions to navigation.

LOCATION OF THE AUTHORIZED ACTIVITY: Shoreline and offshore waters of Lake Michigan within the State of Illinois subject to regulation by the U.S. Army Corps of Engineers, Chicago District.

The District Commander reserves the right to include additional special conditions to activities authorized under this permit or require the project to be reviewed under an individual permit as necessary to safeguard the public interest, or to protect important public resources.

DEFINITIONS: The term "you" and its derivatives, as used in this permit, refer to the permittee or any future transferee. The term "this office" refers to the U.S. Army Corps of Engineers Chicago District Regulatory office having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer. The term "activity", as used in this permit, includes all structures and work authorized under this permit.

Definitions found at 33 CFR Parts 320-332 and 40 CFR Part 230 are applicable to the LMRGP and are incorporated by reference herein.

1. *Authorization* is written verification by this office that an activity qualifies for, and may proceed under, the LMRGP provided the terms and conditions of the program are followed. Verification under the LMRGP is valid for a period of three (3) years from the date of verification unless otherwise specified in the verification.
2. *Notification* is the submission of application materials by the applicant to this office.
3. *Ordinary high water mark (OHWM)* is that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas (33 CFR 328.3(e), 33CFR 329.11(a)(1), and RGL 05-05).
4. *Permittee* is the individual, organization or company authorized to complete an activity under the LMRGP.
5. *Waters of the United States (WOUS)* is an all-encompassing term referring to lakes, rivers, streams, wetlands, and other aquatic resources that are regulated by the Corps under Section 404 of the Clean Water Act. A complete definition can be found at 33 CFR 328.3.
6. *Pre-fill sand* is the volume of sand equal to the holding capacity of a constructed structure.

The general public is hereby authorized by the Secretary of the Army to perform the work authorized by this permit provided the following general and special conditions are fully met.

GENERAL PERMIT PRE-CONSTRUCTION NOTIFICATION REQUIREMENTS: The following information must be submitted to this office:

1. A completed application form signed by the applicant or agent. The application form is available at <https://www.lrc.usace.army.mil/Missions/Regulatory/Illinois/>. If the applicant does not sign the application form, notification must include a signed, written statement from the applicant designating the agent as their representative.
2. Location map identifying the project site.

3. A detailed project description. Include the amount of fill in cubic yards and acres to be placed below the OHWM.
4. Project plans and any construction drawings depicting all proposed work. The plans must include the following:
 - a. A plan view identifying the dimensions of all existing structures and prior fills, as well as dimensions of all proposed structures and fill;
 - b. A cross-sectional plan that identifies the water level measured at the OHWM as it relates to the proposed activity(ies) and/or structures; and
 - c. The OHWM clearly depicted on the plans.
5. Description of existing site conditions:
 - a. On-site constructed structures such as piers, revetments, breakwaters, etc.;
 - b. Proximate structures potentially influencing site conditions or project design both on- and off-site;
 - c. Assessment of shoreline morphology including shoreline orientation, condition and description of shoreline (ex. beach, bluff, maintained turf lawn, recent erosion, existing vegetation), and any other relevant features;
 - d. Applicable project history such as past permits, recent changes in site conditions or water levels, etc. Describe any significant recent storm events that may have influenced site conditions and the date that the qualitative assessment (item 6 below) was completed; and
 - e. Recent photographs of the shoreline and project area.
6. Qualitative assessment of the habitat near the project area (excluding authorized activities 2 and 3 defined above):
 - a. Describe substrate composition, basic description of aquatic and terrestrial vegetation, and any other habitat features observed or known/documented;
 - b. Distance from, and location of, nearest tributary, ravine, or other aquatic resource;
 - c. Distance from, and location of, nearest known reef/shoal or other habitat feature; and
 - d. Bathymetric survey conducted within the last 12 months.

STATEMENT ON MITIGATION: In accordance with the Federal Mitigation Rule (33 CFR part 332), the Section 404(b)(1) guidelines (40 CFR part 230), and current Corps policies and guidelines for compensatory mitigation, regulated activities must be designed and constructed to avoid and minimize (mitigate) adverse effects, both temporary and permanent, to WOUS to the maximum extent practicable at the project site. Mitigation includes actions which may avoid, minimize, rectify, reduce, or compensate for adverse environmental effects or activities which may otherwise be contrary to the public interest. Regulated activities which the Corps believes do not mitigate adverse environmental effects or are contrary to the public interest are ineligible for authorization by the LMRGP and will be evaluated by the Corps using individual permit procedures.

After all practicable steps to avoid and minimize adverse effects to WOUS have been considered, the Corps may require compensatory mitigation to ensure that the regulated activity results in no more than minimal adverse environmental effects, or will not be contrary to the public interest. In reviewing the complete notification for the proposed activity, the Corps will determine whether the activity authorized by the LMRGP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest.

The Corps will issue the verification for that activity if it meets the terms and conditions of the LMRGP, unless the Corps determines, after considering compensatory mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest. When this occurs, the Corps will exercise discretionary authority to require an individual permit evaluation for the proposed regulated activity.

The notification request must include a statement describing how compensatory mitigation requirements will be satisfied, or an explanation why compensatory mitigation should not be required for proposed losses to WOUS. Project proponents may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the project proponent must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of the current Corps policies, guidelines, and 33 CFR 332 (the Mitigation Rule).

GENERAL CONDITIONS:

1. The time limit for completing the authorized work ends three (3) years from the date of verification by this office.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. In the event the property associated with the work authorized by this permit is sold or transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, the transferee must sign and date the last page of their authorization and forward a copy of the original authorization, along with the newly signed transferee signature page, to this office to validate the transfer of this authorization.
4. Regulated activities which are likely to directly or indirectly jeopardize the continued existence of a federally threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species, are ineligible under the LMRGP. No regulated activity is authorized which “may affect” a listed species or critical habitat unless ESA Section 7 consultation addressing the effects of the proposed activity has been completed by the lead Federal agency.
5. Water quality certification (WQC) under Section 401 of the Clean Water Act may be required from the Illinois Environmental Protection Agency (IEPA). This office may consider water quality, among other factors, in determining whether to exercise discretionary authority and require an Individual Permit. Section 401 WQC is a requirement for projects carried out in accordance with Section 404 of the Clean Water Act. Projects carried out in accordance with Section 10 of the Rivers and Harbors Act of 1899 do not require Section 401 WQC. The IEPA granted Section 401 certification on (September 29, 2020), with conditions, for the LMRGP. A copy of the Section 401 WQC is enclosed in Appendix 1. Conditions of the certification are hereby made conditions of this permit.
6. Any non-federal entity applying to the Corps for an Individual Permit or a Letter of Permission for a project located within the boundary of the Illinois Coastal Management Program (ICMP), including waters of Lake Michigan, is required to submit a Federal Consistency Determination confirmation from the ICMP as part of the permit review process. On (September 27, 2020), the Illinois Department of Natural Resources Coastal Management Program granted the Federal Consistent Determination for the LMRGP. This determination is confirmation that the activities covered under the LMRGP are consistent with the policies of the ICMP. PDF maps of the ICMP’s Zone Boundaries can be found at the bottom of the page at: www.dnr.illinois.gov/cmp/Pages/boundaries.aspx. Instructions on requesting an ICMP Federal Consistency Determination can be found at: www.dnr.illinois.gov/cmp/Documents/ICMPFederalConsistencyReviewProcedures.pdf.
7. In cases where this office determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), the activity may require an Individual Permit. A determination of whether the activity may be authorized under the LMRGP in place of an Individual Permit will not be made until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. Federal permittees designated as the lead agency must follow agency-specific procedures for complying with the requirements of Section 106 of the NHPA. Federal

permittees must provide this office with the appropriate documentation to demonstrate compliance with those requirements.

Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the Illinois State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer, as appropriate, and the NRHP (see 33 CFR 330.4(g)).

When reviewing permit submittals, this office will comply with the current procedures for addressing the requirements of Section 106 of the NHPA. Based on the information submitted and these efforts, this office will determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties to which the activity may have the potential to cause effects and so notified this office, the non-Federal applicant must not begin the activity until notified by this office either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

This office must take into account the effects on such properties in accordance with 33 CFR Part 325, Appendix C, and 36 CFR 800. If all issues pertaining to historic properties have been resolved through the consultation process to the satisfaction of this office, Illinois SHPO, and the Advisory Council on Historic Preservation, this office may, at its discretion, authorize the activity under the LMRGP.

Applicants are encouraged to obtain information on historic properties from the SHPO and the NRHP at the earliest stages of project planning. For information, contact:

Illinois State Historic Preservation Office
Illinois Department of Natural Resources
Attn: Review & Compliance
Old State Capital
1 Natural Resources Way
Springfield, IL 62701
(217) 782-4836
<https://www2.illinois.gov/dnrhistoric/Pages/default.aspx>

If you discover any previously unknown historic, cultural, or archeological remains and artifacts while accomplishing the activity, you must immediately notify this office of what was found, and to the maximum extent practicable, stop activities that would adversely affect those remains and artifacts until the required coordination has been completed. This office will initiate the Federal, Tribal, and State coordination required to determine if the items or remains warrant a recovery effort, or if the site is eligible for listing in the NRHP.

8. Regulated activities or their operation may not impair reserved Tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights. The area covered by this permit is within the aboriginal homelands of several American Indian

Tribes. If any human remains, Native American cultural items, or archaeological evidence are discovered during any phase of this project, interested Tribes request immediate consultation with the entity of jurisdiction for the location of discovery. In such case, please contact this office immediately upon discovery.

9. Regulated activities may not cause more than a minimal adverse effect on navigation. Safety lights and signals prescribed by the U.S. Coast Guard (USCG), through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities within navigable WOUS. The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work will cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim will be made against the United States on account of any such removal or alteration.
10. Discharges of dredged or fill material may not occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
11. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
12. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being accomplished in accordance with the terms and conditions of your permit.
13. You are responsible for all work authorized herein and for ensuring that all contractors are aware of the terms and conditions of this authorization.
14. A copy of this authorization must be present at the project site during all phases of construction.
15. You must notify this office of any proposed modifications to the project, including revisions to any of the plans or documents cited in this authorization. You must receive approval from this office before work affected by the proposed modification is performed.
16. For repair and/or modification of a marine structure, provide the date the structure was originally constructed and a copy of the Department of the Army permit for the structure, if one was issued.

SPECIAL CONDITIONS:

1. Installation, repair, and modification of permanent and seasonal piers/docks: Piers/docks must be constructed in accordance with the following conditions and limitations:
 - a. The pier/dock must be situated within 125 feet of the toe of the bluff, as determined by this office. A variance in the maximum offshore distance of a structure may be granted in cases where exceptions would be reasonable due to the shoreline configuration or for specified public recreational uses. All variances will be approved by this office on a case-by-case basis;
 - b. The width of the pier/dock must not be greater than 10 feet;
 - c. For L-shaped or T-shaped piers/docks, the length of that portion parallel to the shoreline must not exceed 50 percent of the landowner's shoreline frontage, nor 50 feet;
 - d. Piers/docks must be aligned so as not to cross the projection of property lines into the waterway or come within 10 feet of the projection of the property line. A variance in this distance may be granted where there are natural limiting features or limited shoreline available. Coordination and agreement to the variance with adjacent property owners is required. All variances must be approved by this office on a case-by-case basis. Note that a dispute over property ownership will not be a factor in the Corps public interest decision (see 33 CFR 320.4(g));
 - e. Pier/dock posts must be marked with reflective devices. If the display of lights and/or signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the Corps and/or the USCG must be installed and maintained by, and at the expense of, the permittee;
 - f. Boat mooring buoys and pier/dock flotation units must be constructed of materials that are clean and free of pollutants and not become waterlogged or sink if punctured. Flotation units and devices must be composed of low-density, closed cell, rigid plastic foam. Foam bead flotation will not be allowed unless commercially encapsulated and designed specifically for flotation purposes. Reconditioned plastic drums and metal barrels are allowed if they are first cleaned and filled with flotation foam. Barrel, drums or containers that previously contained pesticide, herbicide, or other hazardous substances are not allowed;
 - g. Non-floating piers/docks must be constructed in a manner which will minimize obstruction to littoral drift. Pre-fill sand at a volume of 120% of the calculated capture volume of the proposed structure(s) must be provided in conjunction with the construction of the structure. A pre-construction bathymetric survey must be completed within one (1) month of the start of construction to recalculate the pre-fill sand volume to account for changes in site conditions since the original survey. Surveys more than one (1) month old will be considered if the start of construction is delayed due to weather conditions. A copy of the survey and final

pre-fill sand volume must be provided to this office prior to the start of construction activities;

- h. The pier/dock, boat hoist, or boat lift must be securely anchored to prevent its detachment during times of high water, winds, or ice movement; and
 - i. Boat ramps, boat hoists, and lifts must not exceed 60 feet in width and be constructed of steel or other suitable material. Boat ramps constructed of asphalt are not authorized under this permit.
2. Navigational and mooring aids: The placement of aids to navigation and regulatory markers that are approved by, and installed in accordance with, the requirements of the USCG (see 33 CFR, chapter I, subchapter C, part 66). Mooring aids include non-commercial, single-boat, mooring buoys.
 3. Temporary recreational structures: Temporary buoys, markers, small floating docks, and similar structures placed for recreational use during specific events such as water skiing competitions and boat races for seasonal use, provided that such structures are removed within 30 days after use has been discontinued.
 4. Installation, repair, and modification of shore protection: Includes seawalls, revetments, bulkheads, groins, breakwaters, or other similar structures:
 - a. Acceptable materials to be used include poured (formed) concrete, clean quarried stone, fabric-formed concrete, gabions, steel (piling), and clean recycled concrete chunks with the reinforcement steel removed. Rubble, asphalt, pavement, debris, and other waste products may not be used for shore protection;
 - b. Shoreline structures must be designed to withstand the expected wave forces of the lake. Steepening of stone structure faces that include a stone toe design may be allowed by this office on a case-by-case basis;
 - c. For shoreline protection structures consisting of steel, the addition of stone may be required to reduce erosion of adjacent shorelines from reflected waves or induced eddies at the end of structures;
 - d. A construction sequence describing how access to the site will be accomplished. Water-based access is limited to the use of barges for the transport of heavy equipment and construction materials;
 - e. A contingency plan for temporary “dig-in” and sidecasting of lake substrate for access to the work area by barge. If temporary “dig-in” is needed, you must provide notification to this office of the change prior to sidecasting and relocating the substrate;
 - f. Revetments must be the minimum width below the OHWM necessary for completing the work and for structural integrity of the proposed design;

- g. Groins and breakwaters must be situated within 125 feet of the toe of the bluff, as determined by this office. A variance in the maximum offshore distance of a structure may be granted for public facilities. All variances must be approved by this office on a case-by-case basis;
 - h. Pre-fill sand at a volume of 120% of the calculated capture volume of the proposed structure(s) must be provided in conjunction with the construction of the structure. A pre-construction bathymetric survey must be completed within one (1) month of the start of construction to recalculate the pre-fill sand volume to account for changes in site conditions since the original survey. Surveys more than one (1) month old will be considered if the start of construction is delayed due to weather conditions. A copy of the survey and final pre-fill sand volume must be provided to this office prior to the start of construction activities; and
 - i. Structures must provide reasonable accommodations, as determined by this office, to maintain public access to the shoreline.
5. Beach nourishment:
- a. Clean sand material from an upland source or suitable dredged material that complies with the 401 WQC in Appendix 1 may be used;
 - b. Placement may not occur within or be associated with activities occurring in wetlands as defined in Title 33 CFR Part 320.
6. Maintenance of existing public harbor, public access facilities, and navigational features required for maintaining existing function:
- a. This permit only applies to once annual maintenance dredging of existing areas that have received previous authorization to dredge from this office;
 - b. Dredging must be limited to those areas necessary to maintain existing authorized capacity and that are actively maintained;
 - c. Maintenance (repair, rehabilitation, or replacement) of any previously authorized, currently serviceable structure or fill, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or footprint may be permitted, provided the environmental impacts resulting from such repair, rehabilitation, or replacement are minimal. This includes changes in materials, construction techniques, or current construction codes or safety standards which are necessary to implement the repair, rehabilitation, or replacement.

7. In-water discharge of dredged material, including beneficial use of dredged material for beach nourishment, shore protection, or ecosystem restoration:
 - a. In-water discharge of dredged material includes placement of clean dredged sediment in less than 18 feet of water depth and on beaches below the OHWM;
 - b. Materials may be placed for any purpose including disposal of excess materials, shoreline/beach nourishment, habitat creation, or other approved purpose;
 - c. Placement may not occur within, or be associated with, activities occurring in wetlands as defined in Title 33 CFR Part 320 unless specifically approved by this office.

8. Temporary structures and minor discharges of dredged or fill material necessary for the removal of vessels (wrecked, abandoned, or disabled) or for the removal of constructed obstructions to navigation:
 - a. Those structure or discharges necessary for the removal of vessels (wrecked, abandoned or disabled); and
 - b. Removal of constructed obstructions to navigation.

FURTHER INFORMATION:

1. Limits of this Authorization:
 - a. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law;
 - b. This permit does not grant any property rights or exclusive privileges;
 - c. This permit does not authorize any injury to the property or rights of others; and
 - d. This permit does not authorize interference with any existing or proposed Federal project.

2. Limits of Federal Liability. The Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes;
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on the behalf of the United States in the public interest;
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;

- d. Design or construction deficiencies associated with the permitted work; and
 - e. Damage claims associated with any future modifications, suspension, or revocation of this permit.
3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in the reliance on the information you provided.
4. Reevaluation of Permit Decision. The office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit;
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above); and
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

Approved by:



Paul B. Culberson
Colonel, U.S. Army
District Commander

1 October 2020

Date

Appendix 1

Illinois Environmental Protection Agency
Section 401 Water Quality Certification



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

217/782-3362

SEP 29 2020

U. S. Army Corps of Engineers
Chicago District
Regulatory Branch
231 South LaSalle Street, Suite 1500
Chicago, Illinois 60604

Re: U.S. Army Corps of Engineers, Chicago District Regional General Permit for Lake Michigan
Log No. C-0063-20
401 Water Quality Certification with Conditions

Dear Sir or Madam:

This Agency has reviewed the proposed Regional General Permit public noticed for Cook and Lake County by the Chicago District on March 31, 2020. Based on the information included in the public notice and on the Agency's record, it is our engineering judgment that the activities proposed for coverage under the General Permit may be completed without causing water pollution as defined in the Illinois Environmental Protection Act, provided the project is carefully planned and supervised.

Section 401 water quality certification is hereby issued for the following activities listed under the Regional General Permit: (1) Installation, repair and modification of permanent and seasonal piers/docks, (2) Navigational and mooring aids, (3) Temporary recreational structures, (4) Installation, repair, and modification of shore protection, (5) Beach nourishment, (6) Maintenance of existing public harbor, public access facilities, and navigational features required for maintaining existing function, (7) In-water placement of dredged material including beneficial use of dredged material for beach nourishment, shore protection, or ecosystem restoration and (8) Temporary structures and minor discharges of dredged or fill material necessary for the removal of vessels or for the removal of man-made obstructions to navigation; subject to the following General Conditions and subject to the attached Special Conditions for items (4) and (7) of the above listed activities.

General Condition 1: Pursuant to 35 Ill. Admin. Code Section 395.401(a), the applicant shall not cause:

- a. a violation of applicable water quality standards of the Illinois Pollution Control Board Title 35, Subtitle C: Water Pollution Rules and Regulation;
- b. water pollution defined and prohibited by the Illinois Environmental Protection Act;
- c. interference with water use practices near public recreation areas or water supply intakes;
- d. a violation of applicable provisions of the Illinois Environmental Protection Act.

General Condition 2: Pursuant to 35 Ill. Admin. Code Sections 302.515 and 395.401(b), the applicant shall provide adequate planning and supervision during the project construction period for implementing construction methods, processes and cleanup procedures necessary to prevent water pollution and control erosion.

General Condition 3: Pursuant to 35 Ill. Admin. Code Section 395.402(b)(2) and the Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)], the applicant is advised that the following permit(s) must be obtained from the Illinois EPA: The permittee shall obtain a Section 39 Final Determination by submitting a Joint Application to IDNR and IEPA prior to commencement of proposed

2125 S. First Street, Champaign, IL 61820 (217) 278-5800
2009 Mall Street Collinsville, IL 62234 (618) 346-5120
9511 Harrison Street, Des Plaines, IL 60016 (847) 294-4000
595 S. State Street, Elgin, IL 60123 (847) 608-3131

2309 W. Main Street, Suite 116, Marion, IL 62959 (618) 993-7200
412 SW Washington Street, Suite D, Peoria, IL 61602 (309) 671-3022
4302 N. Main Street, Rockford, IL 61103 (815) 987-7760

construction. The applicant must obtain permits to construct sanitary sewers, water mains, and related facilities prior to construction.

General Condition 4: Pursuant to 35 Ill. Admin. Code Section 302.105(f)(1)(F), prior to proceeding with any work in accordance with this Regional Permit, potential impacts to State threatened or endangered species and Natural Areas shall be determined in accordance with applicable consultation procedures established under 17 Ill. Admin Code Part 1075. The Department of Natural Resources (IDNR) Ecological Compliance Assessment Tool (EcoCAT) is available to complete consultation at <http://dnr.illinois.gov/EcoPublic/>. If IDNR determines that adverse impacts to protected natural resources are likely, the applicant shall address those identified concerns with IDNR through the consultation process. Please contact IDNR, Impact Assessment Section at 217-785-5500 if you have any questions regarding consultation.

General Condition 5: Pursuant to 35 Ill. Admin. Code Sections 302.105(a), 302.105(c)(2)(B) and 395.401(a), for any project that involves a waterbody with a USEPA approved Total Maximum Daily Load (TMDL) allocation for a pollutant parameter that is reasonably expected to exist within the resulting discharge, additional measures which ensure consistency with the assumptions and requirements of the TMDL must be developed and incorporated with the construction plan. TMDL program information and water listings are available at <https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Pages/reports.aspx>.

General Condition 6: Pursuant to 35 Ill. Admin. Code Section 302.515, in-water construction including mechanical dredging operations shall be conducted in a manner to minimize resuspension of materials in the water column using techniques such as careful equipment use, use of equipment modifications such as closed clamshell buckets, use of turbidity curtains during dredging and use of sealed barges and transportation trucks. Turbidity curtains shall be used in accordance with the current version of the "Illinois Urban Manual" <https://illinoisurbanmanual.org/> Practice Standard for Floating Silt Curtain (no. 917).

General Condition 7: Except for placement of dredged material covered under the Regional General Permit, pursuant to 35 Ill. Admin. Code Sections 302.515 and 395.401, any spoil material excavated, dredged or otherwise produced must not be returned to the waterway but must be deposited in a self-contained area that is in compliance with all State statutes, regulations and permit requirements with no discharge to waters of the State unless a permit has been issued by the Illinois EPA pursuant to 35 Ill. Admin. Code 395.203 and Section 12(b) and 39(n) of the Illinois Environmental Protection Act. Any backfilling must be done with clean material and placed in a manner to prevent violation of applicable water quality standards.

General Condition 8: Pursuant to the Illinois Environmental Protection Act Section 39(a)[415 ILCS 5/39(a)] and 35 Ill. Admin. Code Sections 395.402(b)(2) and 309.102, the applicant shall be responsible for obtaining an NPDES Storm Water Permit required by the federal Clean Water Act prior to initiating construction if the construction activity associated with the project will result in the disturbance of 1 (one) or more acres, total land area. An NPDES Storm Water Permit must be applied for at <https://www2.illinois.gov/epa/topics/forms/water-permits/storm-water/Pages/construction.aspx>.

General Condition 9: Pursuant to 35 Ill. Admin. Code Section 302.515, the applicant shall implement all necessary sedimentation and erosion control measures consistent with the current version of the “Illinois Urban Manual” found at <https://illinoisurbanmanual.org/>.

General Condition 10: Pursuant to 35 Ill. Admin. Code Section 302.515, asphalt, bituminous material and concrete with protruding material such as reinforcing bar or mesh shall not be 1) used for backfill, 2) placed on shorelines/streambanks, or 3) placed in waters of the State.

General Condition 11: Pursuant to 35 Ill. Admin. Code Sections 395.401 and 395.205, the fill material used in Lake Michigan shall be predominantly sand or larger size material, with <20% passing a #230 U. S. sieve.

General Condition 12: Pursuant to 35 Ill. Admin. Code Sections 395.401, 302.515 and 302.504, all construction equipment and material that enters Lake Michigan shall be free of contaminants of any kind including, but not limited to: sludge, clay, dirt, oil, grease, organic matter, or any other pollutant that would produce offensive conditions or otherwise violate water quality standards.

General Condition 13: Pursuant to 35 Ill. Admin. Code Section 302.515, all hydraulic machinery used for this activity and deployed in or immediately adjacent to Lake Michigan shall utilize biodegradable or bio-based hydraulic fluids to minimize pollution in the case of broken or leaking hydraulic equipment.

General Condition 14: Pursuant to 35 Ill. Admin. Code Sections 395.401, 302.515 and 302.504, the applicant shall ensure that a spill avoidance and response plan has been developed and implemented for management of accidental releases of petroleum, oil, and lubricant products to the aquatic environment during construction and for emergency notification of applicable downstream water supply operators. Absorbent pads, containment booms and skimmers shall be available to facilitate the cleanup of petroleum spills. If floating hydrocarbon (oil and gas) products are observed, the applicant or his designated individual will be responsible for directing that work be halted so that appropriate corrective measures are taken in accordance with the plan prior to resuming work.

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Cook and Lake County Regional General Permit Lake Michigan Activities 401 Water Quality Certification

Log # C-0063-20

Should you have any questions or comments regarding the content of this letter, please contact Francisco J. Herrera at 217-782-3362.

Sincerely,



Darin E. LeCrone, P. E.
Manager, Industrial Unit, Permit Section
Division of Water Pollution Control

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Attachment (Special Conditions for Section 401 water quality certification of the Lake Michigan Special Conditions)

cc: Records Unit
 IDNR, OWR, DWRM, Bartlett
 USEPA, Region 5
 USFWS, Chicago

Illinois Environmental Protection Agency

September 29, 2020

Section 401 Special Conditions applicable to activities 4 & 7 of the Regional General Permit for Lake Michigan

- 1) Pursuant to 35 Ill. Admin. Code Sections 395.401, 302.105(a), and 302.105(c)(2)(B)(ii), an individual Section 401 certification shall be required for shoreline construction activities that may reasonably be expected to cause or contribute to violation of the USEPA approved Total Maximum Daily Loads for pathogenic bacteria. Specifically, this case-specific 401 requirement applies to 1) projects that include the installation or relocation of any municipal stormwater drainage conveyance to Lake Michigan or 2) projects that meet all the following criteria:
 - a. the project or any component of the project is located within 500 meters of a public beach;
 - b. the project includes the installation or enlargement of shoreline features that create or enlarge an embayment. For purposes of this condition an embayment shall be considered any fixed feature(s) which encloses waters of Lake Michigan and has the potential to limit the exchange of freshwater between the enclosed waters and Lake Michigan by means of inhibiting both shore-parallel currents and shore-perpendicular currents; and
 - c. there is an existing or proposed natural or man-made stormwater drainage feature that would discharge concentrated stormwater runoff to the waters enclosed by the proposed embayment. For purposes of this condition, concentrated runoff shall be considered runoff from a land area that exceeds a single residential unit and associated grounds.
- 2) Pursuant to 35 Ill. Admin. Code Sections 395.401 and 302.105(c)(2)(B)(ii), for any shoreline construction activity that meets items (a) and (b) of the above condition but does not meet item (c), a case specific 401 certification will not be required provided the applicant implements appropriate Best Management Practices consistent with Table 5-1 of Illinois EPA's TMDL report titled "Total Maximum Daily Load, Shoreline Segments in Suburban Cook County, Illinois" dated May 15, 2013 to the extent necessary to address bacterial loading from constructed embayment structures and to ensure compliance with applicable fecal coliform water quality standards under 35 Ill. Adm. Code 302.505 and the geometric mean of 126 cfu/100mL load allocation requirement under the above mentioned USEPA approved TMDL.
- 3) Pursuant to 35 Ill. Admin. Code Section 395.401, an individual Section 401 certification shall be required for discharges of dredged material originating from areas outside of Lake Michigan Basin waters under Illinois jurisdiction. Lake Michigan Basin is defined under 35 Ill. Admin. Code 303.443.
- 4) Pursuant to 35 Ill. Admin. Code Sections 395.401, 302.105(c)(2)(B)(ii), 302.515, and 302.504, an individual Section 401 certification shall be required for the discharge of hydraulically dredged materials.
- 5) Pursuant to 35 Ill. Admin. Code Sections 395.205, 395.401, 302.105(c)(2)(B)(ii), 302.515, and 302.504, for discharges resulting from open water disposal or beneficial use of mechanically dredged materials obtained from Lake Michigan the permittee shall comply with the following requirements:
 - a. Physical and/or chemical analysis shall be conducted prior to discharge of dredged materials to evaluate the suitability of the dredged material for discharge and to determine the necessity of additional pollution control measures. For a recurring dredging operation, the sampling and testing frequency shall be considered consistent with 35 Ill. Admin. Code 395.205 if:

- i. Sampling and analyses are conducted prior to each yearly dredge event, or
 - ii. Sampling and analyses are conducted on a "once-per-permit" basis in accordance with written approval by the Illinois EPA. Such approval will be requested in writing to the Bureau of Water by the applicant and will specify the reduced sampling and analysis requirements. The Agency's approval of reduced sampling and analysis will be based on the applicant's demonstration of compliance with permit conditions and water quality standards over a period of time consisting of no less than the ten (10) most recent annual dredge events. A request shall consist of the following items:
 1. An evaluation of the results of all the particle size analyses, 4 hour supernatant analyses and surface water monitoring sample analyses conducted over the ten (10) most recent annual dredge events.
 2. A detailed description of the collection and testing procedures of collected samples with a topographical map showing sampling locations.
 3. An evaluation of the results of all the Polarized Light Microscopy (PLM) and Transmission Electron Microscopy (TEM) over the ten (10) most recent annual dredge events.
- b. The following sampling and analysis shall be conducted on a representative number of samples from the dredge cut (minimum of 3 samples analyzed separately):
- i. A particle size distribution using a No. 230 U.S. sieve.
 - ii. Analysis of asbestos by the following methods:
 1. PLM and TEM methods shall be used for asbestos testing. All samples shall be analyzed by each asbestos test method.
 2. For new dredge cuts, the modified Superfund method as described in Special Condition 5(f) shall be conducted at least one time where dredged material is to be placed on a beach or in nearshore waters for beach nourishment. After the initial modified Superfund testing is conducted on a particular dredge cut and the results are determined to fall below the asbestos concentrations provided in Special Condition 5(d)(iv), the modified Superfund method testing is not required for subsequent dredge events.
 - iii. Resuspension analysis:
 1. For open water placement of dredged material, a supernatant test, based on settling periods of at least zero (0) and four (4) hours, shall be conducted on each representative sample and the receiving water. Supernatant analysis will be conducted in mass per volume for the following parameters: total suspended solids (TSS), total volatile solids (TVS), ammonia-nitrogen (as N), phosphorus (as P), total dissolved solids (TDS), sulfate, chloride, lead (total), and zinc (total).
 2. For beach placement of dredged material, an elutriate test shall be conducted on each representative sample and the receiving water. Elutriate analysis will be conducted in mass per volume for the following parameters: total suspended solids (TSS), total volatile solids (TVS), ammonia-nitrogen (as N), phosphorus (as P), total dissolved solids (TDS), sulfate, chloride, lead (total), and zinc (total).
 3. Parameters shall not exceed Lake Michigan Basin water quality standards, 35 Ill. Admin. Code 302, Subpart E. If water quality standards are not met, then the applicant shall conduct water quality monitoring at the dredged disposal site to ensure water quality standards are met at the boundary of the mixing zone, as

determined using models described in the Inland Testing Manual, Appendix C, if applicable. If models show water quality standards will not be met at the boundary of the mixing zone, then dredged material shall be governed by condition 5(e).

- c. Water quality monitoring shall be conducted during open water placement activities if the 4 hour supernatant test results of the dredge material exceed the following concentrations: 0.02 mg/L ammonia-nitrogen (as N), 12 mg/L chloride, 0.007 mg/L phosphorus and 15 mg/L of total suspended solids (TSS). The following parameters shall be monitored on a twice weekly basis in the first week of the dredging event and weekly thereafter and reported in mg/L: total suspended solids (TSS), ammonia-nitrogen (as N), phosphorus (as P), and chloride. The mean 4 hour supernatant test result may only be used to make this determination provided the mean value is based on a minimum of 10 samples. The water quality sampling shall be conducted in accordance with the following:
- i. A sample of the water quality at the placement site shall be collected prior to the start of dredging activities, at surface and mid-depth elevations consisting of water hardness, water pH, and water temperature in addition to the above listed parameters.
 - ii. Water quality samples shall be collected at surface and mid-depth elevations at two locations representative of the prevailing water current direction, one at approximately 100 feet from the discharge point and the other at approximately 500 feet from the discharge point.
 - iii. Water quality samples shall be taken at approximately one (1) hour and four (4) hours after the discharge of dredge material commences.
 - iv. Sample laboratory analysis results, drawings depicting the location of each collected sample point, the volume of dredge material discharged, method of dredged material placement and the dredge disposal location shall be recorded and compiled into a monitoring report. The monitoring report shall also provide the following information: method of determining downstream sample locations; date, time, location, and individual(s) who performed the sampling; the laboratory analysis sheets; date and time that discharge begins and ends.
- d. All parameters tested in accordance with condition 5 shall be tested by methods in accordance with 40 CFR 136 with reporting limits that do not exceed the following values:

Ammonia-Nitrogen (as N)	0.02 mg/L
Chloride	12 mg/L
Lead (total)	0.05 mg/L
Phosphorus (as P)	0.007 mg/L
Sulfate	24 mg/L
Total Dissolved Solids (TDS)	180 mg/L
Zinc (total)	0.159 mg/L
Polarized Light Microscopy (PLM)	1% ACM
Transmission Electron Microscopy (TEM)	1% ACM
Asbestos Superfund Method	2 Ms/g PM ₁₀
ACM (Asbestos containing material)	
Ms/g PM10 (Million structures per gram of particulate matter)	

- e. Should any of the results obtained from special condition 5(b) meet the following, the applicant shall submit the results to the Agency for written approval 90 days prior to proposed dredging.

- i. Material with any separate particle size analysis equal to or greater than 20% passing a No. 230 U.S. sieve.
 - ii. Material with 4 hour supernatant or elutriate results which exceed twice the reporting limit concentrations.
 - iii. Material with greater than 1% ACM reported from the PLM or TEM test.
 - iv. Material tested for asbestos using the Superfund method that exceeds a mean value of 6.23 Ms/g PM₁₀ and a 95% upper confidence limits (UCL) of 12.58 Ms/g PM₁₀ for the 12 or more samples using the sum of the Protocol and NIOSH 7402 test methods.

- f. The dredged material shall be placed in the water in a manner to minimize resuspension of sediment material and contaminants by utilizing techniques including careful placement methods, release of material near the bottom of the water body, disposal during favorable weather conditions that minimize turbulence and transport of suspended contaminants and other methods such as turbidity curtains should be used as necessary to minimize re-suspension of sediment material. Turbidity curtains shall be used in accordance with the current version of the "Illinois Urban Manual" <https://illinoisurbanmanual.org/> Practice Standard for Floating Silt Curtain (no. 917).

- g. Modified Superfund method testing shall be conducted on a minimum of twelve (12) representative sediment samples from the source material. Samples shall be prepared and analyzed in accordance with the most current version of the Superfund Method for the Determination of Releasable Asbestos in Soils and Bulk Materials(U.S. EPA 540-R-97-028, 1997) and modified in the Draft Modified Elutriator Method for the Determination of Asbestos in Soils and Bulk Material (Berman and Kolk, May 2000) and additional modifications necessary to obtain the necessary sampling and analysis of PM₁₀ in accordance with the Illinois Attorney General's Task Force Report. Sampling shall utilize a grid sampling system with equally spaced samples. Samples analyzed for asbestos shall be analyzed by Transmission Electron Microscopy (TEM) and for both the NIOSH 7402 (PCME) method and Protocol Structures method. The aforementioned sampling and analysis shall be conducted in accordance with the recommendations specified in the document entitled Illinois Beach State Park (IBSP): Determination of Asbestos Contamination in Sand Used for Beach Nourishment, Final Recommendations, dated December 29, 2003, prepared by the University of Illinois at Chicago, Center of Excellence in Environmental Health, Health Hazard Evaluation Program for the Illinois Attorney General's Task Force that was formed to address asbestos contamination at Illinois Beach State Park (IBSP). Sampling results shall be used to conduct a screening risk assessment to evaluate the potential harm to human health. Results of the screening risk assessment shall be compared to the results in Table 7 of the Illinois Attorney General's Task Force Report.

- h. The permittee shall monitor in accordance with special condition 5(c). The permittee shall operate the dredge and disposal such that the surface water at 500 feet from the discharge point does not exceed 0.02 mg/L ammonia-nitrogen (as N), 12 mg/L chloride, 0.05 mg/L lead (total), 0.007 mg/L phosphorus, 24 mg/L sulfate, 180 mg/L total dissolved solids (TDS), 0.159 mg/L zinc (total), or does not exceed the background concentrations measured under condition 5(b) and otherwise complies with the water quality standards of 35 III. Admin. Code, Subtitle C.